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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,383	09/16/2003	Juergen Floege	ABGENIX.052A	5518
37915	7590	07/26/2005	EXAMINER	
GEORGE YAHWAK ESQ. 555 LONG WHARF DRIVE, 9TH FLOOR NEW HAVEN, CT 06511			HUYNH, PHUONG N	
			ART UNIT	PAPER NUMBER

1644

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/665,383

Applicant(s)

FLOEGE ET AL.

Examiner

Phuong Huynh

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE One MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 9/16/03.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

I. Claims 1-21 are pending.

#### *Election/Restrictions*

II. Restriction to one of the following inventions is required under 35 U.S.C. 121:

1. Claims 1-7, drawn to a **method of treating nephritis** using antibody that binds to platelet derived growth factor-DD (PDGF-DD), classified in Class 424, subclass 130.1.
2. Claims 1, 4 and 8-15, drawn to a **method of inhibiting mesangial cell proliferation** using antibody that binds to platelet derived growth factor-DD (PDGF-DD), classified in Class 424, subclass 130.1.
3. Claims 16-21, drawn to a **method of detecting nephritis** using antibody that binds to platelet derived growth factor-DD (PDGF-DD), classified in Class 435, subclass 7.1.

The inventions are distinct, each from the other because:

Inventions of Groups 1-3 are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01).

The instant specification does not disclose that these methods would be used together. The methods of groups 1-3 as claimed are all unrelated as they comprise distinct steps, demonstrate that each method has a different mode of operation and result in different endpoint.

III. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or recognized divergent subject matter. A prior art search also requires a literature search. It is an undue burden for the examiner to search more than one invention. Therefore restriction for examination purposes as indicated is proper.

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- IV. Irrespective of whichever group the applicant may elect, the applicant is further required under 35 U.S.C. 121 to elect:

If Group 1 or 3 is elected, the Applicant is required to elect a method of treating a **specific autoimmune disease**, such as the ones recited in claim 4 or 21. These diseases such as the ones recited in claim 4 are patentably distinct because diseases such as inflammation as opposed to proliferation (cancer) have separate disease etiology, cell population sample makeup and require separate searches, for example NPL.

- V. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 16 are generic.
- VI. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.
- VII. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).
- VIII. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.
- IX. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

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- X. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (571) 272-0846. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The IFW official Fax number is (703) 872-9306.
- XI. Any information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuong N. Huynh, Ph.D.

Patent Examiner

Technology Center 1600

July 22, 2005



CHRISTINA CHAN

SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600